

United States District Court  
Eastern District of California

Benjamin Ellis,

Plaintiff,

vs.

S. Wheeler, et al.,

Defendants.

No. Civ. S 03-2622 DFL PAN P

Order

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Plaintiff is a prisoner, without counsel, who claims defendants Sears and Wheeler violated plaintiff's civil rights by forcing plaintiff, who is paralyzed from the chest down, to disrobe for a strip-search while sitting in a chair. Plaintiff seeks the court's intervention in discovery disputes and defendants oppose.

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party. Fed. R. Civ. P. 26(b)(1). Information sought need not be

1 admissible at trial if the discovery is reasonably calculated to  
2 lead to the discovery of admissible evidence. Id. The court may  
3 limit discovery if it determines the discovery sought is  
4 unreasonably cumulative or obtainable from a more convenient or  
5 less expensive source, the party seeking discovery had ample  
6 opportunity to obtain the information sought, or the burden or  
7 expense of the proposed discovery outweighs its likely benefit.  
8 Fed. R. Civ. P. 26(b)(2). A party has a continuing duty to  
9 supplement, correct or amend discovery responses if the court so  
10 orders or if the party learns the responses were in some material  
11 respect incorrect or incomplete and the information has not  
12 otherwise been made available to other parties. Fed. R. Civ. P.  
13 26(e)(2).

14 A party may, without leave of court or written stipulation,  
15 serve upon any party no more than 25 written interrogatories.  
16 Fed. R. Civ. P. 33(a). Absent an order or stipulation extending  
17 time, the receiving party has 30 days to answer each  
18 interrogatory fully in writing under oath unless there is an  
19 objection, in which case the party must state the reason therefor  
20 and answer portions of the interrogatory to which no objection is  
21 made. Fed. R. Civ. P. 33(b).

22 Any party may request any other party produce for inspection  
23 documents including writings, drawings, graphs, charts or data  
24 compilations. Fed. R. Civ. P. 34(a). The requesting party must  
25 identify the items to be produced and the party upon whom the  
26 request is made must make a written response stating that

1 inspection will be permitted as requested, unless the party  
2 objects and states the basis therefor. Fed. R. Civ. P. 34(b).

3 A party may move for an order compelling discovery with  
4 respect to objections or other failure to respond to  
5 interrogatories or requests to produce documents. Fed. R. Civ.  
6 P. 37(a)(2)(B), 33(b)(5), 34(b).

7 Plaintiff seeks an order directing defendant Wheeler to  
8 verify his response to plaintiff's first request for admissions  
9 and directing defendant Sears to verify his responses to  
10 plaintiff's first request for admission and first request for  
11 production of documents.

12 The rules do not require verification of responses to  
13 requests for admission or document requests. See Fed. R. Civ. P.  
14 34, 36. (Pursuant to Fed. R. Civ. P. 26(g)(2), however, a  
15 party's or his attorney's signature on a response to a discovery  
16 request constitutes a certification that the response complies  
17 with the federal rules and existing law, is not made for any  
18 improper purpose and is not unreasonable.)

19 Plaintiff seeks an order directing defendants to respond to  
20 plaintiff's May 30, 2005, interrogatories and request for  
21 documents. Plaintiff has not attached copies of these requests  
22 but defendants concede plaintiff served them and that defendants  
23 did not respond because of counsel's negligence.

24 Defendants shall serve responses to plaintiff's May 30,  
25 2005, discovery requests.

26 For these reasons, plaintiff's August 19, 2005, motion to

1 compel is denied in part and granted in part. Defendants shall  
2 serve responses to plaintiff's May 30, 2005, discovery requests  
3 within 20 days of the date this order is signed.

4 So ordered.

5 Dated: November 29, 2005.

6 /s/ Peter A. Nowinski

7 PETER A. NOWINSKI

8 Magistrate Judge  
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